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EUROPEAN SOCIAL CHARTER

European Committee of Social Rights

Conclusions XXII-4 (2023)

NETHERLANDS IN RESPECT OF ARUBA

This text may be subject to editorial revision.

The function of the European Committee of Social Rights is to rule on the conformity of the situation in States with the European Social Charter. In respect of national reports, it adopts conclusions; in respect of collective complaints, it adopts decisions.

Information on the Charter, the Committee, the national reports as well as the Statement of interpretation on Article 17 adopted by the Committee during the supervision cycle can be found in the General Introduction to all Conclusions.

In accordance with the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, the report requested from the States Parties concerned the following provisions of the thematic group IV " Children, families and migrants ":

- the right of children and young persons to protection (Article 7),
- the right of employed women to protection of maternity (Article 8),
- the right of the family to social, legal and economic protection (Article 16),
- the right of mothers and children to social and economic protection (Article 17),
- the right of migrant workers and their families to protection and assistance (Article 19).

The reference period was from 1 January 2018 to 31 December 2021.

The following chapter concerns the Netherlands in respect of Aruba which ratified the 1961 Charter on 23 January 2004. The deadline for submitting the 12nd report was 31 December 2022, and the Netherlands in respect of Aruba submitted it on 2 February 2023.

The Committee recalls that the Netherlands in respect of Aruba was asked to reply to the specific targeted questions posed under various provisions (questions included in the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter). The Committee therefore focused specifically on these aspects. It also assessed the replies to the previous conclusions of non-conformity, deferral and conformity pending receipt of information (Conclusions 2015).

In addition, the Committee recalls that no targeted questions were asked under certain provisions. If, in its previous conclusion (Conclusions 2015), the Committee concluded that the situation was in conformity, there was no examination in 2023.

The Netherlands in respect of Aruba has accepted Article 16.

The present chapter on the Netherlands in respect of Aruba concerns 1 situation and contains:

– 1 conclusion of non-conformity : Article 16.

Conclusions and reports are available at www.coe.int/socialcharter.

Article 16 - Right of the family to social, legal and economic protection

The Committee takes note of the information contained in the report submitted by the Netherlands with regard to Aruba.

The Committee recalls that for the current reporting cycle, States were asked to respond to several targeted questions for Article 16 of the Charter as well as, where applicable, previous conclusions of non-conformity, deferral or conformity pending receipt of information (see the appendix to the letter, whereby the Committee requested a report on the Charter's implementation in respect of the provisions relating to the "Children, family and migrants" thematic group).

In its previous conclusion (Conclusions XX-4 (2015)), the Committee found that the situation in the Netherlands with regard to Aruba was not in conformity with Article 16 of the Charter on the grounds that:

- there was no adequate legal protection for persons threatened with eviction from their housing;
- there were no mediation services;
- there was no adequate protection, both in law and in practice, for women in case of domestic violence;
- equal treatment of nationals of States Parties regarding the payment of family benefits was not ensured because of the excessive length of residence required.

The Committee's assessment will therefore relate to the information provided in the report in response to the conclusion of non-conformity, and to the targeted questions.

Legal protection of families

Rights and obligations, dispute settlement

- **Mediation services**

In its previous conclusion (Conclusions XX-4 (2015)), the Committee noted that the report did not provide any information on mediation services; therefore, it considered that the situation was not in conformity with the 1961 Charter on the ground that there were no mediation services.

The report again contains no information on this issue; therefore, the Committee reiterates its previous conclusion of non-conformity on this point.

Domestic violence against women

In its previous conclusion (Conclusions XX-4 (2015)), the Committee noted that the report did not provide any information on domestic violence against women. Therefore, it considered that the situation was not in conformity with the 1961 Charter on the ground that there was no adequate protection, both in law and in practice, for women in cases of domestic violence.

Among the targeted questions that it raised, the Committee asked for updated information on measures taken to reduce all forms of domestic violence against women, including information on incidence and conviction rates.

In response, the report indicates that Safe House Aruba, a platform for cooperation between different organisations in Aruba, works in the prisons and care sector. At the fortnightly meeting of this platform, individual cases of extreme social problems are discussed. These problems affect various people at risk, repeat offenders, people with mental disorders in need of help, including victims and perpetrators of domestic violence. In addition, the Safe House is, among other things, responsible for developing policies for complex issues and persons with multiple social problems. It provides treatment to perpetrators and victims of violence in relationships, facilitates and develops collaboration between social assistance and judicial services.

The Committee takes note of the “Safe Barrios” project, which was approved in 2022 (outside the reference period) to improve infrastructure in neighbourhoods and increase security.

The Committee observes that the report does not provide information on the protection of women, in law and in practice, in cases of domestic violence nor on the of incidence and conviction rates for domestic violence.

In light of all the information at its disposal, the Committee considers that the situation still is not in conformity with the 1961 Charter and reiterates its previous conclusion of non-conformity on the ground that there is no adequate protection, both in law and in practice, for women in cases of domestic violence.

Social and economic protection of families

Childcare facilities

In its previous conclusions (Conclusions XX-4 (2015) and XIX-4 (2011)), the Committee asked for information on the draft legislation to regulate official approval of health and safety conditions in childcare facilities. It pointed out that, should the necessary information not be provided in the next report, it would not be possible to establish that the situation in the Netherlands with regard to Aruba is in conformity with Article 16 of the 1961 Charter in this respect.

Due to the failure to provide requested information, the Committee concludes that the situation in the Netherlands in respect of Aruba is not in conformity with Article 16 of the 1961 Charter. The Committee considers that this failure to provide information amounts to a breach by the Netherlands with regard to Aruba of its reporting obligations under Article 21 of the 1961 Charter.

Family benefits

Equal access to family benefits

In its previous conclusion (Conclusions XX-4 (2015)), the Committee asked to indicate whether stateless persons and refugees were treated equally with regard to family benefits.

The report does not provide the information requested. Therefore, the Committee considers that this failure to provide information amounts to a breach by the Netherlands in respect of Aruba of its reporting obligations under Article 21 of the 1961 Charter.

In a targeted question, the Committee asked whether a length of residence requirement was imposed on nationals of other States Parties lawfully resident in the country for eligibility to family benefits.

In its previous conclusion (Conclusions XX-4 (2015)), the Committee considered that the situation was not in conformity with the 1961 Charter on the ground that equal treatment of nationals of States Parties to the Charter regarding the payment of family benefits was not ensured because of the excessive length of residence required.

The report does not contain any information on this issue; therefore, the Committee reiterates its previous conclusion of non-conformity on this point.

Level of family benefits

In its previous conclusions (Conclusions XX-4 (2015) and XIX-4 (2011)), the Committee asked what the median equivalised income is in order to assess whether child benefit provides an adequate income supplement. It pointed out that, should the necessary information not be provided in the next report, it would not be possible to establish that the situation in the

Netherlands in respect of Aruba is in conformity with Article 16 of the 1961 Charter in this respect.

Among the targeted questions that it raised, the Committee asked for information about the amounts paid in family benefit as well as the median equivalised income for the reference period. It also asked whether family or child benefits were subject to a means-test and, if so, what percentage of families were covered.

The Committee points out that family benefit must be such as to provide a significant number of families with sufficient extra income. Adequacy is assessed with respect to the monthly median equivalised net income as calculated by Eurostat.

Due to the failure to provide requested information, the Committee concludes that the situation in the Netherlands in respect of Aruba is not in conformity with Article 16 of the 1961 Charter. The Committee considers that this failure to provide information amounts to a breach by the Netherlands in respect of Aruba of its reporting obligations under Article 21 of the 1961 Charter.

Measures in favour of vulnerable families

In its previous conclusion (Conclusions XX-4 (2015)), the Committee asked what measures had been taken to ensure the economic protection of vulnerable families, including single-parent families.

Due to the failure to provide requested information, the Committee concludes that the situation in the Netherlands in respect of Aruba is not in conformity with Article 16 of the 1961 Charter. The Committee considers that this failure to provide information amounts to a breach by the Netherlands in respect of Aruba of its reporting obligations under Article 21 of the 1961 Charter.

Among the targeted questions that it raised, the Committee asked what measures had been taken to ensure that vulnerable families could meet their energy needs, in order to ensure their right to adequate housing (which includes access to essential services).

The report indicates that everything consumed in Aruba is imported; therefore, the rise in prices of products/resources on the international market inevitably has an impact on prices in Aruba. In addition, in Aruba, the transport sector, which includes the petrol, diesel and car markets, grew by an average of 7.3 % between November 2020 and November 2021, while utility prices, including gas prices, did not increase.

Due to the failure to provide requested information, the Committee concludes that the situation in the Netherlands in respect of Aruba is not in conformity with Article 16 of the 1961 Charter. The Committee considers that this failure to provide information amounts to a breach by the Netherlands in respect of Aruba of its reporting obligations under Article 21 of the 1961 Charter.

In a targeted question, the Committee asked whether, in cases where specific temporary measures had been taken to financially support families during the Covid-19 pandemic, they would or were expected to be maintained or withdrawn and, if they had been withdrawn, what effect this was expected to have on vulnerable families.

The report does not contain any information on this issue.

Housing for families

In its previous conclusion (Conclusions XX-4 (2015)), the Committee noted the lack of information on various issues relating to the legal protection of persons threatened with eviction (obligation to consult the parties concerned in order to find alternatives to eviction; obligation to set a reasonable period of notice before eviction; access to legal remedies; access to legal aid; compensation in case of illegal eviction). Therefore, it concluded that the

situation was not in conformity with Article 16 of the 1961 Charter on the ground that there was no adequate legal protection for persons threatened with eviction from their homes.

The report does not contain any information on this issue; therefore, the Committee reiterates its previous conclusion of non-conformity on this point.

In a targeted question, the Committee asked States Parties which have not accepted Article 31 of the Charter to provide updated information on the availability of adequate and affordable housing for families.

Due to the failure to provide requested information, the Committee concludes that the situation in the Netherlands in respect of Aruba is not in conformity with Article 16 of the 1961 Charter. The Committee considers that this failure to provide information amounts to a breach by the Netherlands in respect of Aruba of its reporting obligations under Article 21 of the 1961 Charter.

Conclusion

The Committee concludes that the situation in the Netherlands in respect of Aruba is not in conformity with Article 16 of the 1961 Charter on the grounds that :

- there are no mediation services;
- there is no adequate protection, both in law and in practice, for women in cases of domestic violence;
- equal treatment of nationals of other States Parties regarding the payment of family benefits is not ensured due to the excessive length of residence requirement;
- there is no adequate legal protection for persons threatened with eviction from their housing.

Due to the failure to provide the information listed below, the Committee concludes that the situation in the Netherlands with respect to Aruba is not in conformity with Article 16 of the 1961 Charter. The Committee considers that this failure to provide information amounts to a breach by the Netherlands with respect to Aruba of its reporting obligations under Article 21 of the 1961 Charter.

Information missing:

- the adoption of draft legislation to regulate the official approval of health and safety conditions in childcare facilities;
- equal treatment of stateless persons and refugees with regard to family benefits;
- the amounts paid out in family benefits, the median equivalised income for the reference period;
- the means-testing of benefits for families or children and the percentage of families covered;
- measures taken to ensure the economic protection of vulnerable families, including single-parent families;
- measures taken to ensure that vulnerable families could meet their energy needs;
- the availability of adequate and affordable housing for families.